

OREGON CRIME VICTIMS' RIGHTS  
COMPLIANCE IMPLEMENTATION PROJECT  
**User Friendly Oregon Crime Victims' Rights**  
October 31, 2005

Introductory Remarks

This list of crime victims' rights is a synthesis of rights that are given to crime victims in the Oregon constitution, Oregon statutes and other sources of law. In some cases, whether or not a "right" applies may depend on the definition of "victim" that applies to the right, whether or not a victim requested a right that required a request, and whether or not the criminal act was committed by a juvenile or an adult. This list is in no way intended to function as legal advice.

Foundational Rights

1. A crime victim has a right to justice, a right to a meaningful role in the criminal and juvenile justice systems, a right to due dignity and respect, and a right to fair and impartial treatment. A crime victim's rights shall be protected at each stage of the criminal justice system. Or Const Art 1 § 42(1). ORS 147.410.

Initial Notice of Rights

2. A crime victim shall be given notice about victims' rights in Oregon's constitution as soon as practicable. If exercise of any of the rights depends upon a victim making a request, the law enforcement agency shall include in the notice the time period in which a victim is required to make the request. Or Const Art 1 § 42(1)(g). ORS 147.417

Rights at Various Stages of the Criminal System

3. The victim of a person crime has the right to select a support person to accompany the victim to all phases of investigation and prosecution of crime except for grand jury proceedings and certain child abuse assessments. SB198.
4. A crime victim may be eligible for compensation for the crime. Furthermore, victims of sexual assault, suspected child sexual abuse or child physical abuse may have the costs of certain medical assessments paid by the Oregon Department of Justice. Sec. 2, Chapter 789, Oregon Laws 2003. ORS 147.015. ORS 147.390. ORS 147.015. (Compensable losses are listed in ORS 147.035. Emergency awards are described in ORS 147.055.)
5. A crime victim has, upon request, the right to have a court order prohibiting distribution of evidence in a proceeding involving a sexual offense, an offense involving the visual or audio recording of sexual conduct by a child, or invasion of person privacy. SB 199.
6. A crime victim has, upon specific request, the right to be informed in advance of any critical stage of the proceedings held in open court when the defendant will be present. A crime victim has the right to be present at any such stage of the proceedings. Or Const Art 1 § 42(1)(a).
7. A crime victim has the right to have a copy of a transcript, audiotape or videotape of any court proceeding in open court, if one is otherwise prepared. Or Const Art 1 § 42. ORS 147.419.
8. A public body shall provide to the victim any of the following information of which it is the custodian and that is about the defendant or convicted criminal: (a) the conviction

and sentence; (b) criminal history; (c) imprisonment; and (d) future release from physical custody. Or Const Art 1 § 42. ORS 147.421.

9. A crime victim has the right to be reasonably protected from the criminal defendant, convicted criminal, the alleged youth offender, or youth offender throughout the criminal justice process or juvenile delinquency proceeding. Or Const Art 1 § 43(1)(a).
10. A crime victim has the right to have an address and phone number withheld from the defendant upon request unless good cause is otherwise shown. ORS 135.970(1). A victim of domestic violence, sexual assault or stalking may have a substitute address designated when disclosure of the address may threaten the safety of the victim or the victim's child. SB 850.
11. When a criminal act involves the transmission of body fluids, a crime victim may request HIV testing of the person charged or convicted of the offense, which, under certain circumstances, the court must order. If any such HIV test is positive, a victim shall be provided with counseling and referral for appropriate health care, testing and support services. The costs of this testing and counseling shall be paid through the crime victims' compensation program. ORS 135.139.

#### Pre-Trial Rights

12. A crime victim has the right to be notified by the district attorney of the release hearing upon timely request. A crime victim has the right to appear personally at the release hearing and to reasonably express any views relevant to the issues before the magistrate. Or Const Art 1 § 42. ORS 135.245(5)(B).
13. A crime victim has the right to have decisions by the court regarding the pretrial release of a criminal defendant based, in part, on the principle of reasonable protection of the victim. Or Const Art 1 § 43.
14. Any pretrial release order must prohibit any contact with the victim, unless specifically authorized by the court. If the defendant threatens or intimidates the victim, the district attorney shall notify the court and the defense attorney. If the defendant is not in custody and the court finds there is probable cause to believe the victim has been threatened or intimidated by the defendant, the court shall immediately issue an order to show cause why defendant's release status should not be revoked. ORS 135.250. ORS 135.970.
15. If contacted by the defense, a victim must be clearly informed by the defendant's attorney of the identity and capacity of the person contacting the victim, that the victim does not have to talk to the defendant's attorney, or provide other discovery (except subpoenas and examinations allowed defense counsel) unless the victim wishes, and that the victim may have a district attorney present during any interview. Or Const Art 1 § 42. ORS 135.970.
16. In any prosecution arising from an automobile collision in which the defendant is alleged to have been DUII, the prosecuting attorney shall make available to a victim, upon request, reports and information disclosed to the defendant. ORS 135.857. If a DUII offense involves damage to property of a person other than the defendant, the victim of the property damage has a right to be present and to be heard at any hearing on a petition for a diversion agreement. ORS 813.222(1).

17. If a victim of a violent felony makes a timely request, the district attorney shall consult the victim regarding plea discussions before making a final plea agreement. If a victim asks to be consulted, the judge shall ask the district attorney if the victim agrees or disagrees with the plea discussions and agreement and the victim's reasons for agreement or disagreement. Or Const Art 1 § 42. ORS 135.406.

### Trial and Sentencing

18. When resetting any trial date or setting any court hearing requiring the presence of the victim, the court shall take the victim into consideration by asking the district attorney if the victim has been informed of the prospective date and if that date is convenient for the victim. ORS 136.145. See also ORS 136.295(4) re: an extension of custody when a court fails to comply with this provision.
19. In a prosecution for rape, sodomy, unlawful sexual penetration, or sexual abuse, or in a prosecution for an attempt to commit one of these crimes, the following evidence is not admissible: Reputation or opinion evidence of the past sexual behavior of an alleged victim; or reputation or opinion evidence presented for the purpose of showing that the manner of dress of an alleged victim incited the crime or indicated consent. In a prosecution for these crimes or attempt to commit one of these crimes, evidence of a victim's past sexual behavior other than reputation or opinion evidence is also inadmissible unless admitted in accordance with the Oregon Evidence Code and is evidence that relates to the motive or bias of the alleged victim, is necessary to rebut or explain scientific, medical or testimonial evidence offered by the state, is necessary to establish the identity of the victim or is otherwise constitutionally required to be admitted. ORS 40.210. Oregon Evidence Code, Rule 412.
20. The preparer of a pre-sentence investigation report shall make a reasonable effort to contact the victim and obtain a statement describing the effect of the defendant's offense on the victim. The preparer of the report shall include the statement of the victim in the pre-sentence report. ORS 137.530(2).
21. At the time of sentencing, the victim has the right to appear personally or by counsel, and has the right to reasonably express any viws concerning the crime, the person responsible, the impact of the crime on the victim, and the need for restitution and compensatory fine. Or Const Art 1 § 42. ORS 137.013.

### Post-Conviction Rights

22. When a defendant is found guilty except for insanity, or is already under the jurisdiction of the Psychiatric Security Review Board, and a victim desires notification, the Board shall make a reasonable effort to notify the victim of Board hearings, conditional release, discharge or escape. ORS 161.326.
23. The State Police shall establish a toll-free telephone number to give victims of sex offenses updates on prison status, release information, parole status and any other information authorized for release about the person who committed the crime against the victim. ORS 181.601.
24. If a person is on post-prison supervision following conviction of a sex crime, the board or supervisory authority shall include a prohibition against any contact with the victim,

directly or indirectly, unless approved by the victim, the person's treatment provider and the board, supervisory authority or supervising officer. ORS 144.102(3)(b).

25. If the Parole Board, the Department of Corrections or community corrections agency determines that a person under its supervision is a predatory sex offender, the agency supervising the person shall consider notifying any prior victim of the offender that the person is a predatory sex offender. ORS 181.586.
26. A victim has the right to receive prompt restitution from the convicted criminal who caused the victim's loss or injury. Or Const Art 1 § 42. When a person is convicted of a crime that resulted in pecuniary damages, the district attorney shall investigate and present to the court, prior to the time of sentencing, evidence of the nature and amount of such damages. If the court finds that a victim suffered pecuniary damages, the court shall: (a) Include in the judgment a requirement that the defendant pay the victim restitution in a specific amount that equals the full amount of the victim's pecuniary damages; or (b) Include in the judgment a requirement that the defendant pay the victim restitution, and that the specific amount of restitution will be established by a supplemental judgment. In the supplemental judgment, the court shall establish a specific amount of restitution that equals the full amount of the victim's pecuniary damages as determined by the court. ORS 137.106(1). See also ORS 419C.236(2) re: restitution in juvenile formal accountability agreements.
27. Whenever the court imposes a fine for the commission of a crime for which the person injured has a civil remedy, the court may order that the defendant pay any portion of the fine. This section shall be liberally construed in favor of victims. Compensatory fines may be awarded in addition to restitution. ORS 137.101.
28. When a youth offender has been found to be within the jurisdiction of the juvenile court for defacing property by creating graffiti, the court may order the youth offender to perform personal service consisting of removing graffiti or if the victim does not agree to the personal service, community service consisting of removing graffiti at some other location. ORS 419C.461.
29. The court shall notify the parties to a juvenile court action and any other interested parties of a dispositional review hearing. The notice shall state the time and place of the hearing. ORS 419C.653(2).
30. At a juvenile offender's hearing at the half-sentence point, the juvenile offender must prove by clear and convincing evidence that if conditionally released, the person would not be a threat to the safety of the victim or the victim's family. ORS 420A.203(3)(k), ORS 420A.203(4)(a)(B)(ii), 420A.203(4)(b)(I).
31. When a prosecuting attorney is served with a copy of a motion to set aside a conviction, the prosecuting attorney shall provide a copy of the motion and notice of the hearing date to the victim by mailing a copy of them to the victim's last-known address. The court shall allow the victim to make a statement at the hearing. ORS 137.225.
32. The State Board of Parole and Post-Prison Supervision must attempt to notify a victim, if the victim requests to be notified and furnishes the board a current address, at least 30 days before all hearings by sending written notice to the victim's current address. Victims have the right to appear at any hearing or, in their discretion, to submit a written

- statement adequately and reasonably expressing any views concerning the crime and the person responsible. The victim shall be given access to the information that the board or division will rely upon and shall be given adequate time to rebut the information. The victim may present information or evidence at any hearing, subject to such reasonable rules as may be imposed by the offices conducting the hearing. ORS 144.120.
33. A victim has the right, upon timely request, to be notified by the State Board of Parole and Post-Prison Supervision of any hearing before the Board that may result in the revocation of the parolee's parole, or in a revocation sanction for a post-prison supervision violation; to appear personally at the hearing; and, if present, to reasonably express any views relevant to the issues before the Board. ORS 144.108(5)(a). ORS 144.343(9)(a). If a victim so requests, the Board or the Department of Corrections, as the case may be, shall notify the victim of release of a convicted person from a Department of Corrections institution on parole or post-prison supervision. ORS 144.260(3)
  34. A victim has the right, upon timely request, to be notified by the district attorney of any hearing before the court that may result in the revocation of the defendant's probation; to appear personally at the hearing; and if present, to reasonably express any views relevant to the issues before the court. ORS 137.545(11)(a).
  35. Upon agreement of a youth offender, the youth offender's parent or guardian and the victim of the youth offender's conduct, the court may order a youth offender to perform personal service for the victim as a condition of probation. Personal service performed pursuant to the order shall constitute full or partial satisfaction of any restitution ordered, as provided by agreement prior to the making of the order. ORS 419C.465.
  36. An early disposition program for first-time offenders who have committed a nonperson offense and for persons charged with probation violations must provide victim notification and appearance. ORS 135.946.

#### Civil Legal Rights for Victims of Crime

37. Whenever any peace officer has reason to believe that a family or household member has been abused, or that an elderly person or a person with disabilities has been abused, that officer shall use all reasonable means to prevent further abuse, including advising each person of the availability of a shelter or other services in the community and giving each person immediate notice of the legal rights and remedies available. ORS 133.055(3).
38. A family abuse victim has the right to receive an instruction brochure, a petition, order and related forms from the clerk of the circuit court explaining the rights set forth in Oregon Family Abuse Prevention Act provisions. These rights include certain mandatory relief for up to one year and allowing a petitioner to provide a mailing or contact address instead of a residential address. ORS 107.718.
39. When any court enters a decree, order or modification of a decree or order under certain family and assistance payment law, the court shall allow any party to the decree or order to include in the decree or order a waiver of personal service in a subsequent contempt proceeding in order to maintain the confidentiality of a residential address. ORS 107.835.
40. An individual who is a victim of domestic violence, sexual assault or stalking may not be disqualified from receiving unemployment benefits if the individual has no reasonable

available alternatives to leaving work to protect the individual or minor child from further domestic violence, sexual assault or stalking at a workplace or elsewhere. HB 2662.

41. A victim of domestic violence, sexual assault, or stalking, may terminate a rental agreement with a 14 day notice within 90 days of the crime, and has the right to have locks changed by the owner of rental property. ORS 90.453. ORS 90.459.
42. A victim of domestic violence may have a right, in some Oregon Housing Authorities, to a housing preference.
43. A person at risk for family, elder or disabled people abuse, has the right to go on a payment plan rather than have basic phone service disconnected for unpaid bills. SB 983.
44. Any protection order issued by the court of one state or Indian tribe, after reasonable notice was given to the person against whom the order was made sufficient to protect due process rights, shall be accorded full faith and credit by the court of another state or tribe and enforced as if it were the order of the enforcing state or tribe. 18 USC § 2265.
45. The Department of Homeland Security cannot release information about certain victims of domestic violence and their children without the victim's consent. VAWA, 18 USC § 384.
46. Oregon residents who are victims of domestic violence or are at risk of becoming victims may be eligible for Temporary Assistance to Domestic Violence Survivors (TA/DV) emergency monetary grants through the Oregon Department of Human Services. Applicants must have children or be pregnant to qualify. Emergency monetary relief order under the Family Abuse Prevention Act does not affect eligibility for a TA/DVS grant. *See* OAR 461-135-1210 et seq.
47. Qualified victims of crime who are immigrants or certain family members of crime victims, may petition the Immigration and Naturalization Service for lawful permanent residency, for readjustment of status, for cancellation of a deportation order, for a U visa, or for a T visa, as the victim's circumstances allow. 8 USC Sec. 1110 et seq.
48. The Department of Homeland Security cannot make unfavorable immigration decisions based solely upon information provided by a spouse, parent, or other family member who resides in the same household as the immigrant, who is abusive toward the immigrant or the immigrant's child. VAWA, 18 USC § 384.
49. Victims of crime who are immigrants have a right to access emergency medical care and police assistance; to have the perpetrators of the crimes against them prosecuted; to obtain community based services necessary to protect life and safety; to have an attorney present in all immigration cases, hearings and interviews; to access all available crime victim services, VOCA funds, public benefits for children, shelters, protection orders, child custody, and child support.